

DEPARTMENT OF HEALTH

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in An Act to enable the District of Columbia to receive Federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D. C. Official Code § 1-307.02), Reorganization Plan No. 4 of 1996, and Mayor's Order 97-42, dated February 18, 1987, hereby gives notice of the adoption, on an emergency basis, of the following amendments to: section 927 of Chapter 9 of Title 29 of the District of Columbia Municipal Regulations (DCMR) entitled "Attendant Care Services"; section 994 of Chapter 9, Title 29 DCMR entitled "Respite Care Services"; section 1910 of Chapter 19, Title 29 DCMR entitled "Personal Care Services"; section 4209 of Chapter 42, Title 29 DCMR entitled "Reimbursement Rates: Personal Care Aide Services"; section 4211 of Chapter 42, Title 29 DCMR entitled "Reimbursement Rates: Respite Services"; section 5009 of Chapter 50, Title 29 DCMR entitled "Reimbursement - Personal Care Services"; and section 5109 of Chapter 51, Title 29 DCMR entitled "Reimbursement - Home Health Aides". The amendments authorize an increase in the hourly Medicaid reimbursement rate to providers for services provided by personal care and home health aides. The amendments increase the hourly reimbursement rate by \$2.80 per hour for services provided under the State Plan, the Home and Community Based Waiver Services for Persons with Mental Retardation and Developmental Disabilities, and the Home and Community Based Waiver Services for Persons who are Elderly and Individuals with Physical Disabilities.

Providers have indicated that the current hourly rate is insufficient to recruit qualified workers. Federal rules require that the state Medicaid rates be sufficient to enlist enough providers to make certain that access to services is, at a minimum, comparable between program recipients and the general population. An increase of \$2.80 per hour would make the rates comparable to the hourly rate paid in surrounding jurisdictions and would ensure that local providers receive funds sufficient to meet the requirements of the proposed mandatory wage law. Emergency action is necessary for the immediate preservation of the health, safety and welfare of Medicaid recipients who are in need of services provided by personal care and home health aides. The Medicaid Program projects an increase in total program expenditures of approximately \$1,600,000 for services rendered by personal care aides and \$203,831 for services rendered by home health aides during fiscal year 2006 as a result of the increased reimbursement rates.

The emergency rulemaking was adopted on December 20, 2005 and will become effective one day after publication of this notice in the *D.C. Register*. The emergency rules will remain in effect for 120 days or until April 19, 2006, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*. The Director also gives notice of the intent to take final rulemaking action to adopt these proposed rules not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

CHAPTER 9 of Title 29 DCMR (Home and Community Based Waiver Services for Persons with Mental Retardation and Developmental Disabilities) is amended as follows:

A. Section 927.17 (Attendant Care Services) is amended to read as follows:

927.17 The reimbursement rates for attendant care services shall be sixteen dollars and thirty cents (\$16.30) per hour.

B. Section 994.12(c) (Respite Care Services) is amended to read as follows:

(c) Sixteen dollars and thirty cents (\$16.30) per billable hour, per client that requires assistance with activities of daily living one (1) to seventeen (17) hours per day; or

C. Section 994.12(d) (Respite Care Services) is amended to read as follows:

(d) Three hundred dollars (\$300.00) per billable day, per client that requires assistance with activities of daily living eighteen (18) to twenty four (24) hours per day.

Chapter 19 of Title 29 DCMR (Home and Community Based Waiver Services for Persons with Mental Retardation and Developmental Disabilities) is amended as follows:

A. Section 1910.17 (Personal Care Services) is amended to read as follows:

1910.17 Each provider shall be reimbursed sixteen dollars and thirty cents (\$16.30) per hour for personal care services.

Chapter 42 of Title 29 DCMR (Home and Community Based Waiver Services for Persons who are Elderly and Individuals with Physical Disabilities) is amended as follows:

A. Section 4209.2 (Reimbursement Rates: Personal Care Aide Services) is amended to read as follows:

4209.2 Each provider shall be reimbursed sixteen dollars and thirty cents (\$16.30) per hour for services rendered by a Personal Care Aide.

B. Section 4211.1 (Reimbursement Rates: Respite Services) is amended to read as follows:

4211.1 The reimbursement rate for respite services is sixteen dollars and

thirty cents (\$16.30) per hour for individuals needing one (1) to seventeen (17) hours per day, and a flat rate of three hundred dollars (\$300.00) per day for individuals needing eighteen (18) to twenty-four (24) hours per day.

Chapter 50 of Title 29 DCMR (Personal Care Services) is amended as follows:

- A. Section 5009.1 (Reimbursement-Personal Care Aides) is amended to read as follows:**

5009.1 Each provider shall be reimbursed sixteen dollars and thirty cents (\$16.30) per hour for services rendered by a personal care aide.

Chapter 51 of Title 29 DCMR (Home Health Services) is amended as follows:

- A. Section 5109.1 (Reimbursement-Home Health Aides) is amended to read as follows:**

5109.1 Each provider shall be reimbursed seventeen dollars and thirty cents (\$17.30) per hour for services rendered by a home health aide.

Comments on the proposed rules shall be submitted in writing to Robert T. Maruca, Senior Deputy Director, Medical Assistance Administration, Department of Health, 825 North Capitol Street, N.E., 5th Floor, Washington, DC 20002, within thirty (30) days from the date of publication of this notice in the *D.C. Register*. Copies of the proposed rules may be obtained from the same address.